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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/133,550	08/13/98	JOHNSON	J 10172-9013-V

ILLINOIS TOOL WORKS, INC  
3600 W. LAKE AVENUE  
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IM62/1028

EXAMINER

KOCH, G

ART UNIT

PAPER NUMBER

1734

DATE MAILED:

10/28/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/133,550**

Applicant(s)  
**Johnson**

Examiner  
**George R. Koch III**

Group Art Unit  
**1734**



- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 4-7, 83, and 84 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 4-7, 83, and 84 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☒ The proposed drawing correction, filed on Aug 13, 1998 is ☒ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1734

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because the filing dates of 60/036,186 and 60/035,051 are incorrect.

### ***Specification***

2. The substitute specification filed 8/13/98 has not been entered because it does not conform to MPEP § 608.01(q), which requires the submission of a marked-up copy which shows additions to and/or deletions from the original specification. For example, the marked-up copy, on page one, line 19 of the specification, adds the phrase sealant layer if barrier sheeting is used, while the substitute specification lacks this phrase anywhere in that paragraph on page one. Applicant should check the substitute specification and marked-up copy so that the mark-up copy correctly identifies all additions and deletions from the original specification to the substitute specification. Applicant is also reminded to make sure that only reference numbers present in the specification to be present in the drawings.

Art Unit: 1734

***Drawings***

3. The drawings are objected to because, for example, reference numbers 3090 (from Fig. 39A) and 211 (from Fig. 20A) are not present in the specification. Correction is required. Applicant is requested to carefully check the specification and drawings to ensure that reference numbers coincide and are present in both. (See 37 CFR 1.84)

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitation "said tension arm" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim. Was "said dancer arm" intended? For the purpose of examination, "said dancer arm" is assumed.

Art Unit: 1734

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 83 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christoff (US 4,617,683) in view of Tilman et al (US 4,756,629).

Christoff '683 discloses an apparatus for manufacturing reclosable bags having top and bottom ends and opposing front and rear walls, the apparatus comprising web material (Fig. 5, item 31) having attached a flexible interlocking fastener assembly releasably connected to a complementary engaging portion, the complementary engaging portion being connected to the front wall. The sealing means (item 39) are considered to be capable of simultaneously sealing an end of a front wall to an a flexible interlocking fastener lip and the faster lip to the back wall. Christoff discloses means for forming and sealing the bags from the web material

It is unclear if a fastener lip as claimed is provided in Christoff. Tilman '629 discloses the use of assembly lips to improve the bonding between the fasteners and the bag walls. One would appreciate the length of the lip is proportional to the bond strength, i.e., longer lips equals a better bond. It would have been obvious at the time the invention was made to include an

Art Unit: 1734

extended lip on the fastener in Christoff to improve bond strength as suggested by Tilman.

Christoff is capable of simultaneously bonding as claimed.

As to claim 84, Christoff discloses that the apparatus has means for filling the reclosable bags with products.

8. The amendment to the claim 4 has not been entered because it requests the addition of more than five words in any one claim. See 37 CFR 1.121(c) below:

(c) A particular claim may be amended in the manner indicated in paragraph (a) of this section to the extent of corrections in spelling, punctuation, and typographical errors. Additional amendments in this manner will be admitted provided the changes are limited to (1) deletions and/or (2) the addition of no more than five words in any one claim. Any amendment submitted with instructions to amend particular claims but failing to conform to the provisions of paragraphs (b) and (c) of this section may be considered nonresponsive and treated accordingly.

While the amendment has not been entered, claim 4 has been examined as if the amendment had been entered. Applicant is requested to amend claim 4 in accordance with 37 CFR 1.121(b) which states:

(b) Except as otherwise provided herein, a particular claim may be amended only by directions to cancel or by rewriting such claim with underlining below the word or words added and brackets around the word or words deleted. The rewriting of a claim in this form will be construed as directing the cancellation of the original claim; however, the original claim number followed by the parenthetical word "amended" must be used for the rewritten claim. If a previously rewritten claim is rewritten, underlining and bracketing will be applied in reference to the previously rewritten claim with the parenthetical expression "twice amended," "three times amended," etc., following the original claim number.

Art Unit: 1734

*Allowable Subject Matter*

9. Claims 4-7 would be allowable if the amendment to claim 4 filed 5/12/99 is submitted in proper form and claim 4 is rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

The prior art of record does not disclose of an apparatus for applying thermoplastic tape having one or more plastic fastener profiles attached thereto, the apparatus containing a web, means for detecting the fastener profiles, means for detecting the position of the dancer arm and control means for controlling the various web drive mechanisms from the input of these detection means. For example, Bodolay (US 5,776,045) discloses of means for dispensing fasteners onto a thermoplastic web, but uses registration marks or indicia to control the various drive mechanisms. Rajala (US 5,659,229) discloses a web dispensing mechanism, not capable of applying tape with fastener profiles thereon.

Serial Number: 09/133,550

Page 7

Art Unit: 1734

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (703) 308-1854 (TDD). To communicate with a TDD machine, dial the federal relay service at 1-800-877-8339 and give the operator the TDD number. To leave voice mail, dial (703) 306-5478.



GRK

October 25, 1999



RICHARD CRISPINO  
PRIMARY EXAMINER